

July 9, 2013

The Honorable Jo-Ellen Darcy
Assistant Secretary of the Army, Civil Works
108 Army Pentagon
Washington, DC 20310

The Honorable Dan M. Ashe
Director
U.S. Fish and Wildlife Service
1849 C St., NW, Room 3331
Washington, DC 20240

The Honorable Bob Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Assistant Secretary Darcy, Acting Administrator Perciasepe, and Director Ashe:

Thank you for your July 8, 2013, letter regarding the St. Johns Bayou and New Madrid Floodway Project (SJNM) draft Environmental Impact Statement (EIS). Unfortunately, this letter still fails to answer one simple and fundamental question: do all of the agencies agree on the facts surrounding this project?

As you know, the continued internal disagreement surrounding the fundamental facts has caused an unacceptable and prolonged delay of the release of the draft EIS. On February 27, 2013, every agency committed during a meeting with Senator McCaskill and me that there would be an agreement on the facts by March 15, 2013. This deadline was set by former Principal Deputy Assistant Secretary of the Army Terrence "Rock" Salt, and each participant in that meeting verbally agreed to the deadline.

I am not asking the federal government to spend a dime or for the agencies to green light the project's construction. All I've asked is for three government agencies to agree on a simple set of facts. Yet more than 100 days later, I am still waiting for the agencies to meet their own self-imposed deadline, and as a result, I remain uncertain as to whether the agencies have, in fact, reached an agreement on underlying facts of the project.

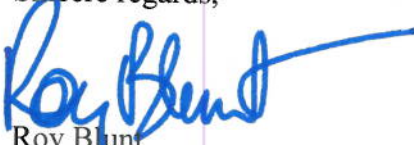
In addition to this fundamental underlying question, I hope you will explain the following:

1. It appears there is not even agreement on wetlands acreage; your letter only states that EPA and the Corps have come to a "common understanding" on the issue. Has the U.S. Fish and Wildlife Service (FWS) come to this "common understanding?" And does a "common understanding" amount to an agreement on the facts? FWS uses National Wetland Inventory Maps to make wetlands determinations, so their input is an integral part of this assessment under the draft EIS.

2. I appreciate your attention to the amount of wetlands acres present at the site; however, this is not the only fact in dispute on wetlands. For instance, I noted in a March 12, 2012, letter that EPA had created a brand new classification for wetlands, entitled "wetlands in agricultural areas." In the agency's response on April 20, 2012, EPA stated this was used to "distinguish between cropped and non-cropped wetlands." The Natural Resource Conservation Service (NRCS) at the U.S. Department of Agriculture (USDA) is responsible for identifying wetlands on farmland. Has NRCS agreed to this new definition?
3. Finally, and most importantly, the disagreement on the amount of wetlands present is not the only fact in dispute underlying this project. Of the 471 comments the Corps received on the draft EIS, 115 of them concerned some area of mitigation. Previous mitigating actions taken by the Corps were challenged in the 2007 D.C. Circuit case granting an injunction against work on the project. Has there been an agreement from the Corps, the EPA, and FWS on whether or not proposed mitigation actions in the new draft EIS are both valid and adequate?

As the saying goes, you're entitled to your own opinion, but you're not entitled to your own facts. The government needs to stop arguing with the government. I look forward to hearing conclusively whether the Corps, EPA, and FWS have reached an agreement on all of the facts surrounding this project, as they committed to do by March 15, 2013.

Sincere regards,



Roy Blunt
U.S. Senator